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Paper No. 17

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MAY 16 2003

OFFICE OF PETITIONS

In re Application of
Richard L. Simmons et al.
Application No. 09/927,663
Filed: August 10, 2001
Attorney Docket No.
56964US002

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 2003, to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

As to item (1), No reply to the Office action mailed October 7, 2002 has been submitted. The instant application cannot be revived until a proper reply to the Office action is submitted. The response required for a grantable petition to revive in this case must be either an Amendment, a Request for Reconsideration, or a Continuing Application. See MPEP section 711.03(c).

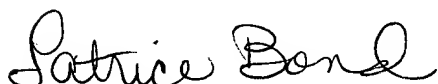
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 PO Box 1450
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By facsimile: (703) 308-6916
 Attn: Office of Petitions

By hand: Office of Petitions
 2201 South Clark Place
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Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.



Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Copy of Office action mailed October 7, 2002